

APPENDIX

UNITED STATES COURT OF APPEALS

DISTRICT OF COLUMBIA

No. 8757

Filed May 8, 1945

JAMES J. LAUGHLIN, APPELLANT

v.

UNITED STATES OF AMERICA, APPELLEE

UPON PETITION FOR REHEARING

Appellant complains that in our opinion we left undecided the applicability—on his appeal—of the decision in *Nye v. United States*, 313 U. S. 33. His contention is that in his case, as in the *Nye* case, the acts of which he was adjudged guilty were committed out of the presence of the court and not so near thereto as to obstruct the administration of justice.

A short answer to this is that the contempts as found by Judge Bailey and as affirmed by us, i. e., the continued untimely filing—for improper purposes—of motions for subpoenas and the filing of the affidavit of bias,¹ which Judge Bailey and

¹ Appellant's testimony before Judge Bailey as to the filing of the motion to disqualify Judge Eicher for bias is that it "was placed on the Clerk's desk in Chief Justice Eicher's Court," at 4:10 or 4:15 April 26th. The docket record shows that the motion was denied by Judge Eicher the same day.

we found obstructed the orderly administration of justice, took place in the courtroom, or maybe, in some instances, in the Clerk's Office, and whether in the one or in the other, in every instance, in the actual progress of the trial in which appellant was actively of counsel (*Savin, Petitioner*, 131 U. S. 267). If this fact is not implicit in our opinion, the opinion should be considered as amended accordingly.

The fact that, in carrying forward appellant's plan to disrupt the trial, *some* of his acts were committed out of the *immediate* presence of the judge did not deprive the court of the right to deal summarily with the wrongful conduct. And there is nothing in the *Nye* case to the contrary.

Petition denied.